

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**IN RE: FRESENIUS GRANUFLO/NATURALYTE  
DIALYSATE PRODUCTS LIABILITY LITIGATION**

**MDL No. 1:13-md-2428-DPW**

**This Document Relates to:**  
*All Cases*

**FMCNA'S NOTICE OF WITHDRAWAL OF ITS MOTION FOR RELIEF FROM CMO  
11'S REBUTTAL EXPERT REPORT DEADLINE AS APPLIED  
TO PLAINTIFFS' EXPERT TIMOTHY ULATOWSKI**

Defendants Fresenius Medical Care Holdings, Inc. d/b/a Fresenius Medical Care North America; Fresenius USA, Inc.; Fresenius USA Manufacturing, Inc.; and Fresenius USA Marketing, Inc. (collectively, "FMCNA") hereby files this notice of withdrawal of its Motion for Relief from CMO 11's Rebuttal Expert Report Deadline as Applied to Plaintiffs' Expert Timothy Ulatowski (Doc. #1177) ("Motion for Relief") currently pending with the Court in the above-captioned matter. In further explanation, FMCNA states the following:

1. On March 16, 2015, Plaintiffs in the *In re: Consolidated Fresenius Cases* litigation pending in the Commonwealth of Massachusetts Middlesex County Superior Court, Lead Civil Action No. 2013-03400-O ("Fresenius State Consolidated Proceeding") disclosed Timothy A. Ulatowski as one of their experts and served FMCNA with Mr. Ulatowski's expert report.

2. On March 24, 2015, FMCNA filed a motion to disqualify Mr. Ulatowski in the Fresenius State Consolidated Proceeding.

3. On May 4, 2015, the Discovery Master issued a decision preliminarily denying FMCNA's motion to disqualify Mr. Ulatowski, in response to which FMCNA filed objections with Superior Court Justice Kirpalani.

4. While FMCNA's objections were pending with Judge Kirpalani, FMCNA filed with this Court its Motion for Relief from CMO 11's June 1st deadline for FMCNA's submission of a rebuttal to Mr. Ulatowski's expert report.

5. On June 1, 2015, Judge Kirpalani issued an order affirming the Discovery Master's decision denying FMCNA's motion to disqualify Mr. Ulatowski.

6. Accordingly, FMCNA and the MDL Plaintiffs' Executive Committee have agreed that FMCNA will issue its rebuttal report to Mr. Ulatowski's expert report on June 26, 2015, thereby mooted FMCNA's Motion for Relief.

WHEREFORE, FMCNA hereby withdraws its Motion for Relief from CMO 11's Rebuttal Expert Report Deadline as Applied to Plaintiffs' Expert Timothy Ulatowski.

June 12, 2015

Respectfully submitted,

/s/ Maria R. Durant

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**CERTIFICATION OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on June 12, 2015.

/s/ Maria R. Durant

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